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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,920	03/11/2004	Amanda Elizabeth Chessell	GB920030048US1	7017

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IBM Corporation
IP Law Department
11400 Burnet Road
Austin, TX 78758

EXAMINER LIE, ANGELA M	
ART UNIT 2163	PAPER NUMBER

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/798,920	CHESSELL ET AL.	
	Examiner	Art Unit	
	Angela M. Lie	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 16, 32, 48 and 64 are objected to because of the following informalities:

The word "otherwise" causes the confusion as to the profile step being performed in the idle state or an active state. For the purposes of the examination examiner considers the profile step to be performed in an active state.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 17, 33 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 similarly to the above listed claims recites the limitation "the selection rule" in third paragraph. This limitation renders the claim indefinite because using the same criteria twice to search the same set does not provide better result than searching it only once with this criteria. In other words in claim 1, the applicant teaches the second set formed by means of selection rule, further this second set is intersected with profile set (third set), following by the extracting the forth set from the data source based on the selection rule. It is very unclear why the same step is performed twice, mainly searching

data store based on the selection rule. If the first selection set is established and then profile set, following by their intersection, then the results, assuming that the result exists, can be provided to the user right away, therefore why would the applicant first establish if the intersection exists and if it does, redo the selection by the same selection rule as used previously?

4. Furthermore, the applicant in paragraph 4th of claim 1, recites "there is not a non-empty intersection", but how is this possible that there is an intersection with no result. Basic principle of mathematics teaches that if sets do not intersect, then there is no solution or result.

5. For the purposes of the examination the examiner considers extracting the fourth set from the data store, as equivalent with selecting result from the intersection formed by profile and selection sets (wherein this intersection is also part of the data store).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

7. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

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directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1, 8-13, 15 -17, 24-29, 31-33, 40-45, 47-49, 56-61, 63 and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Kothuri et al (US Patent 6505205).

As to claims 1, 17, 33 and 49, Kothuri teaches a method and apparatus for selecting data set in accordance with a selection rule (column 13, lines 65-67), comprising the step of: creating a profile of the data store (column 14, line 1, wherein previously selected dimension is also part of data store, since it comprises the items that are part of the main data store), the profile comprising a profile rule defining a profile set (in order to sort the items as disclosed in paragraph 14, line 1, it is necessary to have a certain rule or criteria based on which the elements would have to be sorted), wherein the profile set comprises a third set of one or more data items in accordance with the profile rule (column 14, lines 2-4); responsive to a determination that there is a non-empty intersection of the selected set and the profile set (if the search result is returned then it means that the set was non-empty), extracting a fourth set of one or more data items from the data store in accordance with the selection rule (column 13, lines 46 and 47, and column 14, lines 7-20); and responsive to a determination that there is not non-empty intersection of the selected set and the profile set (if there is no result returned, then it is also an indication the set was empty), providing an indication

- that the data store does not include data items in the selected set (i.e. no result returned).

As to claims 8-10, 24-26, 40-42 and 56-58, Kothuri discloses the method and apparatus wherein the data store includes a relational, hierarchical and object oriented database (column 3, lines 20-24; column 3, lines 64 and 65).

As to claims 11-13, 15, 27-29, 31, 43-45, 47, 59-61 and 63, Kothuri discloses the method and apparatus wherein data store includes an input/output software library (wherein the collection of files such as database is considered a library, column 5, lines 55-58), a disk storage and plurality of disk storage devices (column 5, line 59), and random access memory (column 5, lines 55-60, wherein computing device has to have RAM (random access memory) in order to temporarily store certain instruction while running program).

As to claims 16, 32, 48 and 64, Kothuri discloses the method and apparatus wherein profile step (sorting according to a certain criteria (column 14, line 22)) takes place when the data store is otherwise idle (sorting/profile step takes place in an active state, since all the search instructions are ran in the regular mode).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-7, 18-23, 34-39 and 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kothuri et al (US Patent 6505205) in the view of Asherman (US

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Patent 6738775). Kothuri teaches all the limitations disclosed in claims 1, 17, 33 and 49, however he does not explicitly teach that the first data set comprises numeric, string, date, graphical, sound and video data. Asherman teaches a database communication system wherein the database supports all of the above listed file types (column 7, lines 61 and 62; column 11, lines 24-29). It would have been obvious to one of the ordinary skill in the art during the time the invention was made to store any or all of the above listed file formats in the database, because all those file type are very well known in the art and there often is a need for storing those file in well organized data set (database).

Claims 14, 30, 46 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kothuri et al (US Patent 6505205) in the view of Kolovson (US Patent 5951695). Kothuri teaches all the limitations disclosed in claims 13, 29, 45 and 61 respectively, except for the plurality of disk storage devices including a redundant array of independent disks. Kolovson teaches a database set up into a Redundant Array of Independent disks (column 4, lines 38-47). It would have been obvious to one of the ordinary skill in the art during the time the invention was made, to use RAID set up for the database in order to minimize possible loss of the important data or/and increase the speed of the access time (wherein the specific advantages depend on specific RAID type).

The Prior Art

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Carter et al (US Patent 6826557) disclose a method and apparatus for characterizing and retrieving query results, comprising the data set wherein the information can be filtered in order to narrow down the data set, furthermore data can be also categorized.
- Brody (US Publication 2004/0215612) discloses an arrangement for selecting the data objects from the collection, wherein the data further can be categorized.

Inquiry

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela M. Lie whose telephone number is 571-272-8445. The examiner can normally be reached on M-F.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Angela M Lie



DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100